

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TROY L. JONES, JR.,

Plaintiff,

Case No. 1:22-cv-645

v.

HONORABLE PAUL L. MALONEY

FRANK BAKER, et al.,

Defendants.

/

ORDER ADOPTING REPORT AND RECOMMENDATION

Plaintiff initiated this lawsuit by filing his complaint on July 15, 2022. Defendants filed a motion to dismiss. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation on December 13, 2022, recommending that this Court grant the motion. The Report and Recommendation mailed to the Plaintiff was returned to the Court marked “return to sender” and “no longer at facility”.

Even though the Plaintiff has not received a copy of the Report and Recommendation, Plaintiff has been properly served under the Federal Rules of Civil Procedure. As required by statute, the magistrate judge filed the Report and Recommendation with the Court and mailed a copy to the Plaintiff at his last known address. *See* 28 U.S.C. § 636(b)(1)(C) (“the magistrate judge shall file his proposed findings and recommendations under subparagraph (B) with the court and a copy shall forthwith be mailed to all parties.”). Upon placing the Report and Recommendation in the mail to the Plaintiff’s last known address, service was complete. Fed. R. Civ. P. 5(b)(2)(C). Plaintiff has a continuing obligation to apprise the Court of his current address. *See* W.D. Mich.

L.Civ.R. 41.1 (“Failure of a plaintiff to keep the Court apprised of his current address shall be grounds for dismissal for want of prosecution.”).

After being served with a Report and Recommendation issued by a Magistrate Judge, a party has fourteen days to file written objections to the proposed findings and recommendations. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b); *see United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005). Failure to file an objection results in a waiver of the issue and the issue cannot be appealed. *Id.*; *see Thomas v. Arn*, 474 U.S. 140, 155 (1985) (upholding the Sixth Circuit's practice). No objections have been filed to date.

Although the Plaintiff's failure to file objections is a sufficient reason to adopt the Report and Recommendation, this Court has reviewed the merits of the report and finds the magistrate judge's reasoning and conclusions sound. Therefore,

IT IS HEREBY ORDERED that the Report and Recommendation (ECF No. 23) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that the Motion to Dismiss (ECF No. 12) is GRANTED and Plaintiff's claims against Defendants Baker and Larsen are dismissed for failure to state a claim on which relief may be granted.

Dated: January 11, 2023

/s/ Paul L. Maloney
Paul L. Maloney
United States District Judge